

5 IN THE HIGH COURT OF KARNATAKA AT BANGALORE.

Dated 26th day of May 1998.

BEFORE

THE HON'BLE MR. JUSTICE HARINATH TILAHARI.

WRIT PETITION NO. 10337/1998.

BETWEEN:

*) Smt. Narayanamma,
D/O late Sri. Papaiah,
@ Gare Papanna,
Aged about 55 years.

2) Smt. Gowramma,
D/O late Sri. Papaiah,
@ Gare Papanna, Aged
about 50 years.

Both residing at Hebbal
Kempapura, Yelahanka Hobli,
Arabic College Post,
Bangalore-560 045.

PETITIONERS.

(By Sri. K. Abhinav Anand for petitioners)

AND:

1) The State of Karnataka,
Reptd., by its Secretary,
Revenue Department,
Vidhana Soudha,
Bangalore-1.

2) The Special Deputy Commissioner,
Urban Land Ceiling,
Kumara Park West,
Bangalore-560 020.

RESPONDENTS.

(By Sri.C. Ramakrishna, HOGP for respdts.)

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This Writ Petition is filed under Articles
226 and 227 of the Constitution of India, praying

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to quash the order dated 16-12-1997 in No.ULC(Y) 299:92-93 passed by the 2nd respondent produced at Annexure-E etc.,

This Writ Petition is coming on for preliminary hearing this day, the Court made the following:

O R D E R

Heard the learned counsel for the petitioners and the learned High Court Government Pleader Sri.C. Ramakrishna,

2. This Writ Petition has been filed on behalf of the heirs of Papaiah who is alleged to be the original owner of the agricultural landed property mentioned in Annexure-E. Petitioners state that they are the two daughters of Papaiah and only surviving heirs. It has been stated that Papaiah died in 1993 as per Annexure-C to the Writ Petition. The petitioners case is that petitioners have been in possession. In the proceedings under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976, a final order had been passed on 16-12-1997 declaring 4,412.65 sq. mts. of land to be the excess land in Survey No. 8/2 which was vested in the State Government.

3. Petitioners case is that these two heirs

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were not made parties to the proceedings being the legal heirs of the land owner and successors in title to the land in question. The petitioners have nowhere stated in the petition when the Notification under Section 4 of the Urban Ceiling Act has been published. It is also not stated that ~~predecessors~~^{if} in title to the land did file any objection in the proceedings viz., after publication of the statement regarding the vacant land in excess of the ceiling limit. If Papaiah would ^{if have} filed such objection then it was the duty of the petitioners themselves after the death of Papaiah to have filed ^{if} application to bring them ^{themselves} on record. There is nothing on the record of the petition neither the date of notification under Section 4 nor there is any statement to the effect Papaiah was not served with the notice under Section 8 calling upon him to file statement of objections within 30 days nor is there any statement filed by Papaiah. This fact ought to have been stated. This petition appears to have very ^{if} clearly drafted but not disclosing these facts. ^{if the due to} Non disclosure of the relevant facts the petitioners are not entitled to exercise jurisdiction under Article

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226 of the Constitution by this Court.

4. In view of the above circumstances, ~~held~~ ^{by} ~~allegation~~ ^{that} the petitioners were not made parties would not be sufficient enough to entitle the petitioners to exercise jurisdiction under Article 226 of the Constitution by this Court.

5. In this view of the matter, I do not think this is a fit case for admission. The Writ Petition is hereby dismissed.

6. Sri. C. Ramakrishna, High Court Government Pleader is permitted to file his memo of appearance, within four weeks.

Sd/-
JUDGE

Csk/-

